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Berry & Associates P.C.
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In re Application of
Richard Marc Libman
Application No. 09/592,086
Filed: June 12, 2000
For: APPARATUS FOR PREPARING CLIENT
COMMUNICATIONS INVOLVING
FINANCIAL PRODUCTS AND SERVICES

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DECISION ON PETITION UNDER
37 C.F.R. 1.181 TO
WITHDRAW FINALITY

This is in response to applicant's Petition filed on September 8, 2005, requesting withdrawal of the finality of the Office action mailed May 5, 2005 as being premature.


The petition is **DISMISSED AS MOOT**.

Petitioner alleges that the final rejection dated September 8, 2005 was premature since the Examiner in this Office action "failed to consider and/or explain how certain limitations in the presented claims are met or made obvious by the cited reference."

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 C.F.R. 1.97 (c) with the fee set forth in 37 C.F.R. 1.17(p).

A review of the record indicates that applicant's filed a Notice of Appeal and Request for Pre-Brief Conference on November, 7, 2005. The Office responded with a Pre-Brief Conference Decision to Proceed to the BPAI on January 23, 2006. Applicant's subsequently filed a Request for Continued Examination on May 22, 2006, therefore the finality has already effectively been withdrawn and the issue is moot.

Summary: *Petition Dismissed as Moot*


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EWS 5/1/08